

Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of 24/7
Communications, Inc. (U-6510-C) for an
Expansion of its Certificate of Public Convenience
and Necessity to Operate as a Limited Facilities-
Based Carrier Within the State of California.

Application 01-07-005
(Filed July 10, 2001)

O P I N I O N**I. Summary**

24/7 Communications, Inc. (Applicant) seeks a certificate of public convenience and necessity (CPCN) under Pub. Util. Code § 1001 for authority to expand its authority to provide limited facilities-based local exchange and interexchange telecommunications services. Applicant was previously authorized to resell local exchange and interexchange services. By this decision, we grant the authority requested subject to the terms and conditions set forth below.

II. Background

By Decision (D.) 84-01-037 (14 CPUC2d 317 (1984)) and later decisions, we authorized interLATA entry generally.¹ However, we limited the authority conferred to interLATA service; and we subjected the applicants to the condition

¹ California is divided into 10 Local Access and Transport Areas (LATAs) of various sizes, each containing numerous local telephone exchanges. "InterLATA" describes services, revenues, and functions that relate to telecommunications originating in one

Footnote continued on next page

that they not hold themselves out to the public as providing intraLATA service. Subsequently, by D.94-09-065, we authorized competitive intraLATA interexchange services effective January 1, 1995, for carriers meeting specified criteria.

In D.95-07-054 and D.95-12-056, we authorized the filing of applications for authority to offer competitive local exchange service within the territories of Pacific Bell Telephone Company (Pacific) and Verizon California, Inc. (Verizon). Applicants who are granted authority to provide competitive local exchange service must comply with various rules, including: (1) the consumer protection rules set forth in Appendix B of D.95-07-054; (2) the rules for local exchange competition set forth in Appendix C of D.95-12-056; and (3) the customer notification and education rules adopted in D.96-04-049.

III. Overview of Application

Applicant, a California corporation, filed its application on July 10, 2001. There were no protests to the application. Applicant seeks authority to provide limited facilities-based interexchange service as a nondominant interexchange carrier (NDIEC), and local exchange service as a competitive local carrier (CLC) throughout Pacific's and Verizon's service territories.

IV. Procedural Matters

In Resolution ALJ 176-3068, dated August 2, 2001, the Commission preliminarily categorized this application as ratesetting, and preliminarily determined that hearings were not necessary. No protests have been received.

LATA and terminating in another. "IntraLATA" describes services, revenues, and functions that relate to telecommunications originating and terminating within a single LATA.

There is no apparent reason why the application should not be granted. Given these developments, a public hearing is not necessary, and it is not necessary to disturb the preliminary determinations.

V. Comments on Draft Decision

This is an uncontested matter, in which the decision grants the relief requested. Accordingly, pursuant to Pub. Util. Code § 311(g)(2), the otherwise applicable 30-day period for public review and comment is being waived.

VI. Financial Qualifications of Applicant

To be granted a CPCN, an applicant for authority to provide facilities-based local exchange and/or interexchange services must demonstrate that it has a minimum of \$100,000 of cash or cash equivalent to meet the firm's start-up expenses.² An applicant must also demonstrate that it has sufficient additional resources to cover all deposits required by local exchange carriers (LECs) and/or interexchange carriers (IECs) in order to provide the proposed service.³ Applicant provided a bank statement that demonstrates that it has sufficient cash to satisfy the financial requirement.

We find that Applicant has met our requirement that it possesses sufficient financial resources to fund its operations.

² The financial requirement for CLCs is contained in D.95-12-056, Appendix C. The financial requirement for NDIECs is contained in D.91-10-041.

³ The requirement for CLC applicants to demonstrate that they have additional financial resources to meet any deposits required by underlying LECs and/or IECs is set forth in D.95-12-056, Appendix C. For NDIECs, the requirement is found in D.93-05-010.

VII. Technical Qualifications of Applicant

Applicants for NDIEC and CLC authority are required to make a reasonable showing of technical expertise in telecommunications or a related business. In D.01-04-025, we found Applicant technically qualified to resell local exchange and interexchange services, and granted it a CPCN to do so.

VIII. Tariffs

Since Applicant is requesting no change in its existing authority, except for authority to install equipment in existing buildings or structures, no changes in its tariffs are required.

IX. California Environmental Quality Act (CEQA)

CEQA requires the Commission as the designated lead agency to assess the potential environmental impact of a project in order that adverse effects are avoided, alternatives are investigated, and environmental quality is restored or enhanced to the fullest extent possible. Applicant represents that it will not be constructing any facilities, except for equipment to be installed in existing buildings or structures, for the purpose of providing interexchange or local exchange services. Therefore, it can be seen with certainty that there is no possibility that granting this application will have an adverse effect upon the environment. Applicant must file for additional authority, and submit to any required CEQA review, before it can construct facilities other than equipment to be installed in existing buildings or structures.

X. Conclusion

We conclude that the application conforms to our rules for authority to provide limited facilities-based local exchange and interexchange telecommunications services. Accordingly, we shall approve the application

subject to the terms and conditions set forth herein. Applicant will remain subject to the requirements of D.01-04-025, except that it will be authorized to install equipment in existing buildings or structures.

Findings of Fact

1. Notice of the application appeared in the Daily Calendar on July 12, 2001.
2. No protests have been filed.
3. A hearing is not required.
4. In prior Commission decisions, competition in providing interLATA telecommunications services was authorized, but those offering such services were generally barred from holding out to the public the provision of intraLATA service.
5. In D.94-09-065, the Commission authorized competitive intraLATA services effective January 1, 1995, for carriers meeting specified criteria.
6. In prior decisions the Commission authorized competition in providing local exchange telecommunications service within the service territories of Pacific and Verizon.
7. In D.95-07-054, D.95-12-056, D.95-12-057, and D.96-02-072, the Commission authorized CLCs meeting specified criteria to offer facilities-based services effective January 1, 1996, and resale services effective March 31, 1996.
8. Applicant has a minimum of \$100,000 of cash or cash equivalent that is reasonably liquid and readily available to meet its start-up expenses.
9. Applicant has sufficient additional cash or cash equivalent to cover deposits it must make with other telecommunications carriers in order to provide the proposed service.
10. In D.01-04-025, the Commission found Applicant technically qualified to resell local exchange and interexchange services, and granted it a CPCN to do so.

11. No changes in Applicant's existing tariffs are required.
12. Applicant will not be constructing facilities, except for equipment to be installed in existing buildings or structures.

Conclusions of Law

1. Applicant has the financial ability to provide the proposed service.
2. Applicant has sufficient technical expertise to operate as a telecommunications carrier.
3. Public convenience and necessity require that Applicant's competitive local exchange and interexchange services be subject to the terms and conditions set forth herein.
4. Since Applicant will not be constructing any facilities, except for equipment to be installed in existing buildings or structures, it can be seen with certainty that there will be no significant effect on the environment.
5. The application should be granted to the extent set forth below.
6. Applicant should remain subject to the requirements of D.01-04-025, except that it should be authorized to install equipment in existing buildings or structures.
7. Because of the public interest in competitive local exchange and interexchange services, the following order should be effective immediately.

O R D E R

IT IS ORDERED that:

1. A certificate of public convenience and necessity (CPCN) is granted to 24/7 Communications, Inc. (Applicant) to operate as a limited facilities-based provider of competitive local exchange and interexchange services, subject to the terms and conditions set forth below.

2. Applicant is authorized to provide local exchange service in the service territories of Pacific Bell Telephone Company and Verizon California, Inc.

3. Applicant shall file a written acceptance of the certificate granted in this proceeding.

4. The certificate granted and the authority to render service under the rates, charges, and rules authorized will expire if not exercised within 12 months after the effective date of this order.

5. The corporate identification number assigned to Applicant is U-6510-C which shall be included in the caption of all original filings with this Commission, and in the titles of other pleadings filed in existing cases.

6. Applicant shall send a copy of this decision to concerned local permitting agencies not later than 30 days from the date of this order.

7. Applicant is not authorized to construct facilities, except for equipment to be installed in existing buildings or structures, and shall file an application to amend its CPCN if it desires to do so.

8. Applicant shall remain subject to the requirements of Decision 01-04-025, except that it is authorized to install equipment in existing buildings or structures.

9. The application is granted, as set forth above.

10. This application is closed.

This order is effective today.

Dated _____, at San Francisco, California.